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09400HB4885ham007

LRB094 18448 RLC 56910 a

1 AMENDMENT TO HOUSE BILL 4885

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4885 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Cannabis Control Act is amended by changing  
5 Section 10 as follows:

6 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

7 Sec. 10. (a) Whenever any person ~~who has not previously~~  
8 ~~been convicted of, or placed on probation or court supervision~~  
9 ~~for, any offense under this Act or any law of the United States~~  
10 ~~or of any State relating to cannabis, or controlled substances~~  
11 ~~as defined in the Illinois Controlled Substances Act,~~ pleads  
12 guilty to or is found guilty of violating Sections 4(a), 4(b),  
13 4(c), 5(a), 5(b), 5(c) or 8 of this Act, the court may, without  
14 entering a judgment and with the consent of such person,  
15 sentence him or her to probation pursuant to the terms of this  
16 Section.

17 (b) When a person is placed on probation, the court shall  
18 enter an order specifying a period of probation of 6 to 36 ~~24~~  
19 months, and shall defer further proceedings in the case until  
20 the conclusion of the period or until the filing of a petition  
21 alleging violation of a term or condition of probation.

22 (c) The conditions of probation shall be that the person:  
23 (1) not violate any criminal statute of any jurisdiction; (2)  
24 refrain from possession of a firearm or other dangerous weapon;

1 (3) submit to periodic drug testing at a time and in a manner  
2 as ordered by the court, but no less than 3 times during the  
3 period of the probation, with the cost of the testing to be  
4 paid by the probationer; ~~and~~ (4) perform no less than 30 hours  
5 of community service, provided community service is available  
6 in the jurisdiction; and (5) for first time offenders and  
7 others for whom the court deems it beneficial, attend a drug  
8 school program, provided a drug school program is available. If  
9 a drug school program is not available, the court shall seek  
10 recommendations for treatment or other intervention by a  
11 licensed program designated by the State to provide assessment  
12 services to the courts ~~and is funded and approved by the county~~  
13 ~~board.~~

14 (d) The court may, in addition to other conditions, require  
15 that the person:

16 (1) make a report to and appear in person before or  
17 participate with the court or such courts, person, or  
18 social service agency as directed by the court in the order  
19 of probation;

20 (2) pay a fine and costs;

21 (3) work or pursue a course of study or vocational  
22 training;

23 (4) undergo medical or psychiatric treatment; or  
24 treatment for drug addiction or alcoholism;

25 (5) attend or reside in a facility established for the  
26 instruction or residence of defendants on probation;

27 (6) support his dependents;

28 (7) refrain from possessing a firearm or other  
29 dangerous weapon;

30 (7-5) refrain from having in his or her body the  
31 presence of any illicit drug prohibited by the Cannabis  
32 Control Act, the Illinois Controlled Substances Act, or the  
33 Methamphetamine Control and Community Protection Act,  
34 unless prescribed by a physician, and submit samples of his

1 or her blood or urine or both for tests to determine the  
2 presence of any illicit drug;

3 (7-6) undergo treatment under the supervision of a  
4 licensed program designated by the Department of Human  
5 Services, and according to the terms of Article 40 of the  
6 Alcoholism and Other Drug Abuse and Dependency Act;

7 (8) and in addition, if a minor:

8 (i) reside with his parents or in a foster home;

9 (ii) attend school;

10 (iii) attend a non-residential program for youth;

11 (iv) contribute to his own support at home or in a  
12 foster home.

13 (d-1) In addition to any other criminal or administrative  
14 sanction for any second conviction of violating Section 4(a),  
15 4(b), 4(c), 5(a), 5(b), 5(c) or 8 of this Act or a similar law  
16 of another state or of the United States committed within 5  
17 years of a previous violation of Section 4(a), 4(b), 4(c),  
18 5(a), 5(b), 5(c) or 8 of this Act or a similar law of another  
19 state or of the United States, the defendant shall be sentenced  
20 to a mandatory minimum of 5 days of imprisonment or assigned a  
21 mandatory minimum of 40 hours of community service as may be  
22 determined by the court.

23 (d-2) In addition to any other criminal or administrative  
24 sanction for any third conviction of violating Section 4(a),  
25 4(b), 4(c), 5(a), 5(b), 5(c) or 8 of this Act or a similar law  
26 of another state or of the United States committed within 5  
27 years of a previous violation of Section 4(a), 4(b), 4(c),  
28 5(a), 5(b), 5(c) or 8 of this Act or a similar law of another  
29 state or of the United States, the defendant shall be sentenced  
30 to a mandatory minimum of 10 days of imprisonment or assigned a  
31 mandatory minimum of 80 hours of community service as may be  
32 determined by the court.

33 (d-3) Whenever any person who has previously been convicted  
34 of, or placed on probation or court supervision for, any

1 offense under this Act or any law of the United States or of  
2 any state relating to cannabis or controlled substances pleads  
3 guilty to or is found guilty of possession of cannabis under  
4 this Act, that person also may be required to undergo (i) an  
5 assessment conducted by a licensed program designated by the  
6 State to provide assessment services to the courts to determine  
7 if an alcohol, drug, or intoxicating compound abuse problem  
8 exists and the extent of the problem, and (ii) a professional  
9 mental health screening, and undergo the imposition of  
10 treatment as appropriate. Whenever the professional evaluation  
11 or mental health screening recommends remedial or  
12 rehabilitative treatment or education, the court may monitor  
13 compliance with any remedial education or treatment  
14 recommendations contained in the professional evaluation or  
15 mental health screening. Assessments or screenings under this  
16 subsection (d-3) shall be conducted by an agent independent of  
17 any treatment provider to which the person may be referred.

18 (d-4) In addition to any other criminal or administrative  
19 sanction for any fourth or subsequent conviction of violating  
20 Section 4(a), 4(b), 4(c), 5(a), 5(b), 5(c) or 8 of this Act or  
21 a similar law of another state or of the United States within 5  
22 years of a previous violation of Section 4(a), 4(b), 4(c),  
23 5(a), 5(b), 5(c) or 8 of this Act or a similar law of another  
24 state or of the United States, the court may also order the  
25 defendant to participate in a treatment intervention  
26 consistent with his or her clinical and supervisory needs,  
27 including but not limited to supervision under Article 40 of  
28 the Alcoholism and Other Drug Abuse and Dependency Act or  
29 supervision under the Drug Court Treatment Act.

30 (e) Upon violation of a term or condition of probation, the  
31 court may enter a judgment on its original finding of guilt and  
32 proceed as otherwise provided.

33 (f) Upon fulfillment of the terms and conditions of  
34 probation, the court shall discharge such person and dismiss

1 the proceedings against him.

2 (g) A disposition of probation is considered to be a  
3 conviction for the purposes of imposing the conditions of  
4 probation and for appeal, however, discharge and dismissal  
5 under this Section is not a conviction for purposes of  
6 disqualification or disabilities imposed by law upon  
7 conviction of a crime (including the additional penalty imposed  
8 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)  
9 of this Act).

10 (h) (Blank). ~~Discharge and dismissal under this Section,~~  
11 ~~Section 410 of the Illinois Controlled Substances Act, or~~  
12 ~~Section 70 of the Methamphetamine Control and Community~~  
13 ~~Protection Act may occur only once with respect to any person.~~

14 (h-1) A sentence of probation under this Section is  
15 immediately expungeable upon the successful completion of the  
16 probation.

17 (i) If a person is convicted of an offense under this Act,  
18 the Illinois Controlled Substances Act, or the Methamphetamine  
19 Control and Community Protection Act within 5 years subsequent  
20 to a discharge and dismissal under this Section, the discharge  
21 and dismissal under this Section shall be admissible in the  
22 sentencing proceeding for that conviction as a factor in  
23 aggravation.

24 (j) A person is not eligible for a disposition of probation  
25 under this Section if he or she has during the course of the  
26 act giving rise to the offense under Section 4(a), 4(b), 4(c),  
27 5(a), 5(b), 5(c) or 8 of this Act committed any violation of  
28 Section 5.1, 5.2, or 7 of this Act, any violation of Section  
29 401, 405, 405.1, 405.2, 405.3, 406, 406.1, 407, 407.1, 407.2,  
30 or 408 of the Illinois Controlled Substances Act, any violation  
31 of the Methamphetamine Control and Community Protection Act  
32 involving the manufacture, delivery, or possession with intent  
33 to deliver of methamphetamine or a methamphetamine precursor,  
34 or any offense that is a violent crime under the Rights of

1 Crime Victims and Witnesses Act.

2 (Source: P.A. 94-556, eff. 9-11-05.)

3 Section 10. The Illinois Controlled Substances Act is  
4 amended by changing Section 410 as follows:

5 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

6 Sec. 410. (a) Whenever any person ~~who has not previously~~  
7 ~~been convicted of, or placed on probation or court supervision~~  
8 ~~for any offense under this Act or any law of the United States~~  
9 ~~or of any State relating to cannabis or controlled substances,~~  
10 pleads guilty to or is found guilty of possession of a  
11 controlled or counterfeit substance under subsection (c) of  
12 Section 402, the court, without entering a judgment and with  
13 the consent of such person, may sentence him or her to  
14 probation pursuant to the terms of this Section.

15 (b) When a person is placed on probation, the court shall  
16 enter an order specifying a period of probation of 6 to 36 ~~24~~  
17 months and shall defer further proceedings in the case until  
18 the conclusion of the period or until the filing of a petition  
19 alleging violation of a term or condition of probation.

20 (c) The conditions of probation shall be that the person:  
21 (1) not violate any criminal statute of any jurisdiction; (2)  
22 refrain from possessing a firearm or other dangerous weapon;  
23 (3) submit to periodic drug testing at a time and in a manner  
24 as ordered by the court, but no less than 3 times during the  
25 period of the probation, with the cost of the testing to be  
26 paid by the probationer; ~~and~~ (4) perform no less than 30 hours  
27 of community service, provided community service is available  
28 in the jurisdiction; and (5) for first time offenders and  
29 others for whom the court deems it beneficial, attend a drug  
30 school program, provided a drug school program is available. If  
31 a drug school program is not available, the court shall seek  
32 recommendations for treatment or other intervention by a

1 licensed program designated by the State to provide assessment  
2 services to the courts ~~and is funded and approved by the county~~  
3 ~~board.~~

4 (d) The court may, in addition to other conditions, require  
5 that the person:

6 (1) make a report to and appear in person before or  
7 participate with the court or such courts, person, or  
8 social service agency as directed by the court in the order  
9 of probation;

10 (2) pay a fine and costs;

11 (3) work or pursue a course of study or vocational  
12 training;

13 (4) undergo medical or psychiatric treatment; or  
14 treatment or rehabilitation approved by the Illinois  
15 Department of Human Services;

16 (5) attend or reside in a facility established for the  
17 instruction or residence of defendants on probation;

18 (6) support his dependents;

19 (6-5) refrain from having in his or her body the  
20 presence of any illicit drug prohibited by the Cannabis  
21 Control Act, the Illinois Controlled Substances Act, or the  
22 Methamphetamine Control and Community Protection Act,  
23 unless prescribed by a physician, and submit samples of his  
24 or her blood or urine or both for tests to determine the  
25 presence of any illicit drug;

26 (6-6) undergo treatment under the supervision of a  
27 licensed program designated by the Department of Human  
28 Services, and according to the terms of Article 40 of the  
29 Alcoholism and Other Drug Abuse and Dependency Act;

30 (7) and in addition, if a minor:

31 (i) reside with his parents or in a foster home;

32 (ii) attend school;

33 (iii) attend a non-residential program for youth;

34 (iv) contribute to his own support at home or in a

1 foster home.

2 (d-1) In addition to any other criminal or administrative  
3 sanction for any second conviction of violating subsection (c)  
4 of Section 402 or a similar law of another state or of the  
5 United States committed within 5 years of a previous violation  
6 of subsection (c) of Section 402 or a similar law of another  
7 state or of the United States, the defendant shall be sentenced  
8 to a mandatory minimum of 5 days of imprisonment or assigned a  
9 mandatory minimum of 40 hours of community service as may be  
10 determined by the court.

11 (d-2) In addition to any other criminal or administrative  
12 sanction for any third conviction of violating subsection (c)  
13 of Section 402 or a similar law of another state or of the  
14 United States committed within 5 years of a previous violation  
15 of subsection (c) of Section 402 or a similar law of another  
16 state or of the United States, the defendant shall be sentenced  
17 to a mandatory minimum of 10 days of imprisonment or assigned a  
18 mandatory minimum of 80 hours of community service as may be  
19 determined by the court.

20 (d-3) Whenever any person who has previously been convicted  
21 of, or placed on probation or court supervision for, any  
22 offense under this Act or any law of the United States or of  
23 any state relating to cannabis or controlled substances pleads  
24 guilty to or is found guilty of possession of a controlled  
25 substance under this Act, that person also may be required to  
26 undergo (i) an assessment conducted by a licensed program  
27 designated by the State to provide assessment services to the  
28 courts to determine if an alcohol, drug, or intoxicating  
29 compound abuse problem exists and the extent of the problem,  
30 and (ii) a professional mental health screening, and undergo  
31 the imposition of treatment as appropriate. Whenever the  
32 professional evaluation or mental health screening recommends  
33 remedial or rehabilitative treatment or education, the court  
34 may monitor compliance with any remedial education or treatment

1 recommendations contained in the professional evaluation or  
2 mental health screening. Assessments or screenings under this  
3 subsection (d-3) shall be conducted by an agent independent of  
4 any treatment provider to which the person may be referred.

5 (d-4) In addition to any other criminal or administrative  
6 sanction for any fourth or subsequent conviction of violating  
7 subsection (c) of Section 402 or a similar law of another state  
8 or of the United States within 5 years of a previous violation  
9 of subsection (c) of Section 402 or a similar law of another  
10 state or of the United States, the court may also order the  
11 defendant to participate in a treatment intervention  
12 consistent with his or her clinical and supervisory needs,  
13 including but not limited to supervision under Article 40 of  
14 the Alcoholism and Other Drug Abuse and Dependency Act or  
15 supervision under the Drug Court Treatment Act.

16 (e) Upon violation of a term or condition of probation, the  
17 court may enter a judgment on its original finding of guilt and  
18 proceed as otherwise provided.

19 (f) Upon fulfillment of the terms and conditions of  
20 probation, the court shall discharge the person and dismiss the  
21 proceedings against him.

22 (g) A disposition of probation is considered to be a  
23 conviction for the purposes of imposing the conditions of  
24 probation and for appeal, however, discharge and dismissal  
25 under this Section is not a conviction for purposes of this Act  
26 or for purposes of disqualifications or disabilities imposed by  
27 law upon conviction of a crime.

28 (h) (Blank). ~~There may be only one discharge and dismissal~~  
29 ~~under this Section, Section 10 of the Cannabis Control Act, or~~  
30 ~~Section 70 of the Methamphetamine Control and Community~~  
31 ~~Protection Act with respect to any person.~~

32 (h-1) A sentence of probation under this Section is  
33 immediately expungeable upon the successful completion of the  
34 probation.

1 (i) If a person is convicted of an offense under this Act,  
2 the Cannabis Control Act, or the Methamphetamine Control and  
3 Community Protection Act within 5 years subsequent to a  
4 discharge and dismissal under this Section, the discharge and  
5 dismissal under this Section shall be admissible in the  
6 sentencing proceeding for that conviction as evidence in  
7 aggravation.

8 (j) A person is not eligible for a disposition of probation  
9 under this Section if he or she has during the course of the  
10 act giving rise to the offense under Section 402 of this Act  
11 committed any violation of Section 5, 5.1, 5.2, 7, or 8 of the  
12 Cannabis Control Act, any violation of Section 401, 405, 405.1,  
13 405.2, 405.3, 406, 406.1, 407, 407.1, 407.2, or 408 of this  
14 Act, any violation of the Methamphetamine Control and Community  
15 Protection Act involving the manufacture, delivery, or  
16 possession with intent to deliver of methamphetamine or a  
17 methamphetamine precursor, or any offense that is a violent  
18 crime under the Rights of Crime Victims and Witnesses Act.

19 (Source: P.A. 94-556, eff. 9-11-05.)

20 Section 15. The Methamphetamine Control and Community  
21 Protection Act is amended by changing Section 70 as follows:

22 (720 ILCS 646/70)

23 Sec. 70. Probation.

24 (a) Whenever any person ~~who has not previously been~~  
25 ~~convicted of, or placed on probation or court supervision for~~  
26 ~~any offense under this Act, the Illinois Controlled Substances~~  
27 ~~Act, the Cannabis Control Act, or any law of the United States~~  
28 ~~or of any state relating to cannabis or controlled substances,~~  
29 pleads guilty to or is found guilty of possession of less than  
30 15 grams of methamphetamine under paragraph (1) or (2) of  
31 subsection (b) of Section 60 of this Act, the court, without  
32 entering a judgment and with the consent of the person, may

1 sentence him or her to probation pursuant to the terms of this  
2 Section.

3 (b) When a person is placed on probation, the court shall  
4 enter an order specifying a period of probation of 6 to 36 ~~24~~  
5 months and shall defer further proceedings in the case until  
6 the conclusion of the period or until the filing of a petition  
7 alleging violation of a term or condition of probation.

8 (c) The conditions of probation shall be that the person:

9 (1) not violate any criminal statute of any  
10 jurisdiction;

11 (2) refrain from possessing a firearm or other  
12 dangerous weapon;

13 (3) submit to periodic drug testing at a time and in a  
14 manner as ordered by the court, but no less than 3 times  
15 during the period of the probation, with the cost of the  
16 testing to be paid by the probationer; ~~and~~

17 (4) perform no less than 30 hours of community service,  
18 if community service is available in the jurisdiction; and  
19 ~~and is funded and approved by the county board.~~

20 (5) for first time offenders and others for whom the  
21 court deems it beneficial, attend a drug school program,  
22 provided a drug school program is available. If a drug  
23 school program is not available, the court shall seek  
24 recommendations for treatment or other intervention by a  
25 licensed program designated by the State to provide  
26 assessment services to the courts.

27 (d) The court may, in addition to other conditions, require  
28 that the person take one or more of the following actions:

29 (1) make a report to and appear in person before or  
30 participate with the court or such courts, person, or  
31 social service agency as directed by the court in the order  
32 of probation;

33 (2) pay a fine and costs;

34 (3) work or pursue a course of study or vocational

1 training;

2 (4) undergo medical or psychiatric treatment; or  
3 treatment or rehabilitation approved by the Illinois  
4 Department of Human Services;

5 (5) attend or reside in a facility established for the  
6 instruction or residence of defendants on probation;

7 (6) support his or her dependents;

8 (7) refrain from having in his or her body the presence  
9 of any illicit drug prohibited by this Act, the Cannabis  
10 Control Act, or the Illinois Controlled Substances Act,  
11 unless prescribed by a physician, and submit samples of his  
12 or her blood or urine or both for tests to determine the  
13 presence of any illicit drug;

14 (7-5) undergo treatment under the supervision of a  
15 licensed program designated by the Department of Human  
16 Services, and according to the terms of Article 40 of the  
17 Alcoholism and Other Drug Abuse and Dependency Act; or

18 (8) if a minor:

19 (i) reside with his or her parents or in a foster  
20 home;

21 (ii) attend school;

22 (iii) attend a non-residential program for youth;

23 or

24 (iv) contribute to his or her own support at home  
25 or in a foster home.

26 (d-1) In addition to any other criminal or administrative  
27 sanction for any second conviction of violating this Act or a  
28 similar law of another state or of the United States committed  
29 within 5 years of a previous violation of this Act or a similar  
30 law of another state or of the United States, the defendant  
31 shall be sentenced to a mandatory minimum of 5 days of  
32 imprisonment or assigned a mandatory minimum of 40 hours of  
33 community service as may be determined by the court.

34 (d-2) In addition to any other criminal or administrative

1 sanction for any third conviction of violating this Act or a  
2 similar law of another state or of the United States committed  
3 within 5 years of a previous violation of this Act or a similar  
4 law of another state or of the United States, the defendant  
5 shall be sentenced to a mandatory minimum of 10 days of  
6 imprisonment or assigned a mandatory minimum of 80 hours of  
7 community service as may be determined by the court.

8 (d-3) Whenever any person who has previously been convicted  
9 of, or placed on probation or court supervision for, any  
10 offense under this Act or any law of the United States or of  
11 any state relating to cannabis or controlled substances pleads  
12 guilty to or is found guilty of possession of methamphetamine  
13 under this Act, that person also may be required to undergo (i)  
14 an assessment conducted by a licensed program designated by the  
15 State to provide assessment services to the courts to determine  
16 if an alcohol, drug, or intoxicating compound abuse problem  
17 exists and the extent of the problem, and (ii) a professional  
18 mental health screening, and undergo the imposition of  
19 treatment as appropriate. Whenever the professional evaluation  
20 or mental health screening recommends remedial or  
21 rehabilitative treatment or education, the court may monitor  
22 compliance with any remedial education or treatment  
23 recommendations contained in the professional evaluation or  
24 mental health screening. Assessments or screenings under this  
25 subsection (d-3) shall be conducted by an agent independent of  
26 any treatment provider to which the person may be referred.

27 (d-4) In addition to any other criminal or administrative  
28 sanction for any fourth or subsequent conviction of violating  
29 this Act or a similar law of another state or of the United  
30 States within 5 years of a previous violation of this Act or a  
31 similar law of another state or of the United States, the court  
32 may also order the defendant to participate in a treatment  
33 intervention consistent with his or her clinical and  
34 supervisory needs, including but not limited to supervision

1 under Article 40 of the Alcoholism and Other Drug Abuse and  
2 Dependency Act or supervision under the Drug Court Treatment  
3 Act.

4 (e) Upon violation of a term or condition of probation, the  
5 court may enter a judgment on its original finding of guilt and  
6 proceed as otherwise provided.

7 (f) Upon fulfillment of the terms and conditions of  
8 probation, the court shall discharge the person and dismiss the  
9 proceedings against the person.

10 (g) A disposition of probation is considered to be a  
11 conviction for the purposes of imposing the conditions of  
12 probation and for appeal, however, discharge and dismissal  
13 under this Section is not a conviction for purposes of this Act  
14 or for purposes of disqualifications or disabilities imposed by  
15 law upon conviction of a crime.

16 (h) (Blank). ~~There may be only one discharge and dismissal~~  
17 ~~under this Section, Section 410 of the Illinois Controlled~~  
18 ~~Substances Act, or Section 10 of the Cannabis Control Act with~~  
19 ~~respect to any person.~~

20 (h-1) A sentence of probation under this Section is  
21 immediately expungeable upon the successful completion of the  
22 probation.

23 (i) If a person is convicted of an offense under this Act,  
24 the Cannabis Control Act, or the Illinois Controlled Substances  
25 Act within 5 years subsequent to a discharge and dismissal  
26 under this Section, the discharge and dismissal under this  
27 Section are admissible in the sentencing proceeding for that  
28 conviction as evidence in aggravation.

29 (j) A person is not eligible for a disposition of probation  
30 under this Section if he or she has during the course of the  
31 act giving rise to the offense under this Act committed any  
32 violation of Section 5, 5.1, 5.2, 7, or 8 of the Cannabis  
33 Control Act, any violation of Section 401, 405, 405.1, 405.2,  
34 405.3, 406, 406.1, 407, 407.1, 407.2, or 408 of the Illinois

1 Controlled Substances Act, any violation of this Act involving  
2 the manufacture, delivery, or possession with intent to deliver  
3 of methamphetamine or a methamphetamine precursor, or any  
4 offense that is a violent crime under the Rights of Crime  
5 Victims and Witnesses Act.  
6 (Source: P.A. 94-556, eff. 9-11-05.)".